THE NAIR REGULATION AMENDMENT BILL.

Mr. Raman Tampi, in moving for permission to introduce a Bill to amend the Nair Regulation, I of 1088, spoke as follows :—

"Sir,

In rising to make the motion that stands against my name, I have first to thank you for the ready generosity with which you have accorded permission to me to bring forward this motion at this meeting. But for your kindness in this connection, I should have waited till the next meeting.

The rapid spread of education in Travancore, the result of the beneficent policy of the enlightened and sympathetic Rulers of this State, widened the outlook of the people here, and the cry for reforms in the Marumakkathayom law was raised as early as the days of the late Mr. Thanu Pillai. The attempt at reform made by him failed owing to a variety of causes now happily extinct. The demand for reform, nevertheless, continued, and it was given to your predecessor to take the first practical step to meet this growing demand, and Regulation I of 1088 was added to the Statute Book. So far as the provisions of the Regulation went, they were good enough, but many evils to which Nair Tarwads were subject still continue, and in consequence, at various Sessions of the Popular Assembly, representations were made that further changes in the law were necessary, notably with reference to partition in Tarwads. The powers of the Karanavan are still large, and as the irony of fate would have it, these powers with which he is invested to be made use of in the best interests of the Tarwad, are, oftener than not, invoked for the betterment of his own wife and children and to the detriment of the real beneficiaries of the trust confided to his charge. There are several evils for which Regulation I of 1088 does not provide remedies. My present attempt is to take up some of these difficulties and to find a solution for them. Since giving publicity to the fact that I was prepared to take action in this matter, I have had suggestions from various quarters, on different points. Changes in the law relating to marriage and succession are desired. I have no doubt that they are desirable and will be of benefit to Nairs. My explanation for not making the Bill comprehensive enough to include those points also is that every one of what are considered evils has got the reverse side of the shield, and there is a volume of opinion in support of the same, which did not strike me to be negligible. Attempts to change social customs of any community are always fraught with difficulties and when such customs affect other communities as well, these difficulties assume greater dimensions. But I have no doubt that, with the progress of education and enlightenment, many of these evils will die a natural death and a healthier state of affairs would come forth. I have thought it safe, therefore, to follow the line of least resistance and to choose a few, out of the many points, for solution, being convinced that these are of more pressing importance than others.

I do not think that at this stage it is necessary to speak about the details of the Bill but with your leave, I will say a few words about that part of the Bill which deals with partition in Tarwads and the devolution of Makkathayam properties. I have suggested Thavazhi partition, in the first instance, keeping outright individual partition as the goal of reform. I should not be taken to mean that the Nair Community wants only Thavazhi partition. On the other hand, I believe that individual partition is the best means of making the Nairs industrious, self reliant and capable of achieving success in the struggle for existence. No doubt, fears are entertained that the moment partition is allowed, the properties of the Nairs will find their way into the hands of other communities and that the Nair community will be driven to the verge of pauperism. These fears are absolutely unfounded and the arguments have no substance in them. The fetters on the power of alienation considerably reduce the market value of our properties, and the removal of these shackles is bound to bring about economic changes which will ultimately benefit the Nair Community. In fact other classes of people among whom partition is allowed by law, have, instead of becoming destitute, materially prospered in life. Fully aware of all of these, I have now asked for Thavazhi partition, out of deference to the opinion of the opponents of the reform, though a minority, and have suggested a means of slowing the pace of progress a bit and making the death of the old custom rather easy. I have not indicated the stage at which a Thavazhi can demand partition, but have only formulated the principle. My desire is to evolve a scheme of partition which will beneficially affect the largest number of Nair Tharwads, and the details necessary may be filled in when the Bill is formally introduced and referred to a Select Committee. With regard to the devolution of the Makkathayam Property under the Nair Regulation, there have been conflicting decisions of the High Court and it is generally felt that the law should be made clear.

SIR, in conclusion, I would once more thank you for the kind permission accorded to me and request you to allow me to introduce the Bill at an early date. I can assure you Sir, that, by allowing partition amongst Nairs, you will be laying the foundation of their future prosperity and thereby earning the undying gratitude of generations of Nairs yet unborn."

Mr. G. Parameswaran Pillai:—

"SIR,

I beg to second the motion of my learned friend for leave to introduce the Nair Regulation Amendment Bill. The most important amendment proposed to be effected by the learned Mover is in regard to partition in Nair Tarwads. I might be permitted to say that the amendments proposed in this respect do not go far enough. But the general principle that the

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existing system stands in urgent need of substantial change having been accepted, the exact form and scope of the amending provisions may be definitely settled at subsequent stages of the Bill. There is another aspect to which I should like to draw the attention of the Council. As a result of the experience gained from the practical working of the Nair Regulation during the last seven years, it is desirable that the Regulation as a whole should be taken up and revised by this Council instead of introducing piecemeal amendments thereto. There is very strong public opinion that the provisions relating to marriage and inheritance—especially in the case of marriages between a Nair female and a non-Nair male –require re-modelling. I wish therefore to state that the Nair Regulation stands in need of revision in many directions besides those referred to by the learned Mover this day, and it would have been better to take up the whole question at once. However, so far as they go, the amendments sought to be now introduced by the learned Mover are acceptable for the present, and I beg to accord my support to his motion."

President:—

"Before any discussion on this motion takes place, I may say at once that, for the present, the Government have no objection to leave being granted for the introduction of the Bill. Their future attitude in regard to the Bill will however depend upon the response which it meets with at the hands of the public."

Mr. Kayalam Parameswaran Pillai :—

"Sir,

It is not known what the idea of the Government in reference to the Bill is. Even in answer to my interpellation, Government have not stated whether they have come to any definite conclusion. May I know what the view of the Government in the matter is ?"

President.—"The Government have no definite view now. Their view will depend upon the response which the Bill has from the public after its publication. For the present, they are in favour of leave being granted to introduce the Bill. In this connection, I may also say, particularly for the information of the official Members belonging to the community concerned, that the Bill being a purely social measure, Government have no view of their own one way or the other regarding it at present. The Government will be guided by the opinion of the majority of the Council. For the present, I have no objection to individual official Members expressing freely their opinions, if any, on the subject."

Dr. Kunjan Pillai:—

"Sir,

I am in full sympathy with the motion for leave to introduce a Bill to amend the Nair Regulation, I of 1088. Personally, I feel that the Nair community is deteriorating materially to a very great extent, and I think that this is due to the fact that they have no individual credit, unlike Makkathayees who, we see, are progressing on a more rapid scale than the Nairs at present. We have been hearing about the evils that the Nair community are suffering from at present, and I think that the matured opinion of the community is that these evils can to a very large extent be removed if individual partition is allowed to the Nair Tarwads, and this is also my view. But the learned Mover has said that he has, in deference to the opinion of a portion of the community, asked for Thavazhi partition. This might probably satisfy the community for the time being, provided we have in view individual partition as the goal to be reached. I do not know whether the Mover will have any objection to the introduction of a Clause in the Bill, making individual partition optional and making Thavazhi partition compulsory. By the word 'optional', what I mean, is that if the majority of the members of a Tarwad say that they want individual partition, it may be allowed and if the majority do not want it, then, of course, Thavazhi partition can be enforced. If the Mover can introduce a Clause to that effect also, it will meet to a very great extent the wishes of a large portion of the community. That means that the goal is individual partition and that the step we are taking is only the first step to reach that goal. As I said, I am in full sympathy with the motion, and I support it, and when the Bill comes up before the Council, for discussion, if the official Members are allowed to express their views freely, and if I have an opportunity then, I shall express myself more fully to make out a case for including in the Bill a provision of the kind suggested be me."

Mr. Subrahmanya Pillai:—

"Sir,

I am glad to have obtained an opportunity to express my opinion with regard to partition among the Marumakkathayees in the State. It is a question that has lately begun to engage the serious attention both of Government and of the public. Arguments both in favour of and against partition, individual and Thavazhi, have been before the public for a sufficiently long period, and it is now high time that we should arrive at a satisfactory conclusion. There is no gainsaying the fact that there was a time when the Marumakkathayam system of inheritance had its own advantages. In the early stages of society, agriculture was considered as a respectable profession, and that required then the co-operation of a number of interested workers. Again, grouping together of persons having blood relationship was considered essential for protection of person and property. These were the main causes that led to the creation of joint family system. Marriage in the modern sense of the term was unknown. Coupling and

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divorce were left to the whims and fancies of the parties concerned, the husband or father being in no way responsible for looking after his wife and children. This was the main principle on which the matriarchal system of inheritance developed. The Marumakkathayam system was the most natural one suited to those ages, though for us, it appears to be most unnatural. It was suited to those dark ages, but it is unable to stand the light of the present day civilisation. Circumstances have now changed. Men have begun to have a wider outlook of things in general. Women, who are supposed to be the owners of Marumakkathayam properties, have learned to realise their position as owners without the benefit of enjoyment. Society has far advanced in civilisation. Professions more profitable than agriculture are attracting our attention. We have made our marriages binding and thus recently given the deathblow to the principle of Marumakkathayam system. That has now made us realise the difficulty of being both a loving father and a good Karanavan at the same time. Our recent attempt has been to combine the opposing principles of Marumakkathayam and Makkathayam, and the attempt, in my humble opinion, is sure to end in a failure. A combination of these two contradictory principles cannot evidently evolve a satisfactory solution. Since we have once given up the main principle of the Marumakkathayam system, the only alternative left to us is the Makkathayam system of inheritance with individual partition. It is admitted on all hands that it is and should be our ultimate goal. The main point for discussion at present is whether we should have Thavazhi or individual partition. So far as Thavazhi partition is concerned, though I admit that it can be made an intermediate step towards the goal of individual partition, it is long overdue. I am quite sure that such a step at present will not give general satisfaction, as this will only increase the number of Karanavans and create a good deal of complications without proportionate advantages. Public opinion has far advanced, and the Legislature is lagging behind. Even Courts of law have accelerated the realisation of the goal I have already pointed out. Karanavans, as a class, I understand, had once the greatest objection to partition. But, now, Courts of law have more or less declared that the junior members, both male and female, wherever they be, are entitled to maintenance. Karanavans have been brought to the level of account keepers and Anandravars, their auditors. Their position has already been made too hot for them, and consequently, they are also obliged to seek refuge in individual partition. It has been repeatedly pointed out that no enterprise is open to a member of the Marumakkathayam family, and it is no wonder that a pretty large number of energetic young men, instead of being useful to their country, are obliged to waste the prime portion of their life in the hot atmosphere of Mesopotamia and other places. These evils can be remedied only by the introduction of individual partition. I hope I have expressed sufficiently well my idea regarding the question of partition in Marumakkathayam families. My friend, Mr. Raman Tampi, has already said that he is going to provide only for Thavazhi partition in the Bill which he proposes to introduce. Anyhow, that is a step in the right direction, though it may not give general satisfaction to the public. I have great pleasure in supporting Mr. Tampi's motion for leave to introduce an amending Bill. I think that the Legislature will not be considered as having done its work satisfactorily by the introduction of Thavazhi partition alone and that the question of individual partition will have to be taken up within a very short time."

Mr. Nidiry :—

"Sir,

My personal experience with the members of the Nair community, both in my professional capacity and otherwise, leads me to say that one of the great drawbacks in the way of the progress of that community is the system of inheritance which it follows. In these days of commercial enterprise and industrial awakening, individual credit is of the highest importance for the community. I have seen very few Nair gentlemen in North Travancore, coming forward to take up such enterprises, and the reason for this is said to be the absence of individual credit among the members of that community. This, I think, is due to their system of inheritance and it is high time that that system is changed altogether. Mr. Raman Tampi, the Mover, has said that he is now introducing Thavazhi partition, and that individual partition is the goal kept in view. I have very great pleasure in supporting Mr. Raman Tampi's motion."

Mr. K. Parameswaran Pillai :—

"Sir,

I agree in thinking that the Nair community is not progressing as it ought. But I doubt whether the Mover or other Members have collected sufficient data to prove that the community is deteriorating. Of course there is no doubt that the community is labouring under some difficulties and it is high time that some remedy should be found out. But what is the remedy? I have, for my part, not been able to arrive at any remedy. The system of inheritance which the community follows, may be one of the reasons why it is not progressing. But it is not the sole and only cause. There may be a number of causes which have brought about the present condition and which, perhaps, the members of the community have not correctly investigated. With regard to Thavazhi partition, I think that this is the third time when it is brought before the Council. First, the Marumakkathayam Committee brought forward the proposal and it was not carried out. Next, a Bill was introduced in the Council and that was rejected. And this is the third time that the motion has been brought forward. This shows that the members are under the impression that if Thavazhi partition is granted, it will remedy all the evils that the community is suffering from. I think that the reasons given against Thavazhi

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partition by the Members of this Council at one time still hold good. I doubt whether Thavazhi partition will in any way guide the progress of the Nair community or remedy the evils that it is suffering from at present. If partition is to be introduced at all, it should be individual partition. In my opinion, Thavazhi partition is worse than no partition at all. I do not know whether the learned Mover or other Members have collected statistics to show how far Thavazhi partition has guided the progress of the community. There are many families in which Thavazhi partition has been effected. I have evidence to show that, in the case of some families, Thavazhi partition has contributed to the ruin of the families. I have also instances to show that in some cases it has contributed to the progress of the Tarwads. I am not in a position to say whether it was Thavazhi partition or some other cause that brought about these results. Anyhow, I do not think that Thavazhi partition would in any way aid the progress of the community. If partition is to be effected at all, it should be individual partition, or some other remedy found out for the betterment of the community. Of course, some think that, if partition, Thavazhi or individual, be granted, the Tarwads will be saved. For my part, I have serious doubts as to whether that alone will save the Tarwad. It may be of some help, or it may not be of any help. We cannot say that a particular system of inheritance alone would be the means of improving the condition of a community. There may be many other circumstances which may contribute towards its improvement. If communities who follow other systems of inheritance prosper, it cannot be said that that is solely due to the law of inheritance which governs them. I have no objection to permission being granted for the introduction of a Bill providing for Thavazhi partition in Nair Tarwads. But, I doubt seriously whether that will be of much use in bringing about the amelioration of the condition of the Nair Tarwads."

Mr. Kayalam Parameswaran Pillai: —

"Sir,

At this stage we are not aware of the contents of the Bill; nor are we called upon to speak on their merits or demerits. We are concerned only with the advisability or otherwise of permitting the introduction of the Bill. In this connection, I wish to thank you for giving free voice to the official Members. There will be intelligent opposition, if there is to be any opposition at all, and not a mere dumb block. We have just now heard another side of the question from Mr. K. Parameswaran Pillai. When the principle of the Bill comes up for discussion before the Council, there will be intelligent discussion, and I have no doubt that we shall be able to come to a correct conclusion. I may say that although a copy of the Bill must have been already sent to Government, it must be open to us to suggest amendments to the Bill with reference to the discussion in the Council."

President.—"That is left entirely to the Member who sought for leave and it is for him to frame the Bill, consistently with the leave that he has asked for and given, making provision therein for Thavazhi partition."

Mr. Kayalam Parameswaran Pillai: —

"Under the rules for the conduct of business, a copy of the Bill has to be given even before the permission is sought to introduce it, and the Member in charge will be at a disadvantage inasmuch as he cannot benefit by the discussion that has taken place, and it is therefore that I make this special request for permission being granted to amend the Bill, so that, if he is so advised, he may submit an amended Bill."

President.—"We shall however be able to discuss the principle of the Bill, when it is introduced."

Mr. Raman Tampi:—

"Sir,

We are thankful to the particular official Members who spoke on the motion. I have asked, in the first instance, only for Thavazhi partition. I think that the discussion, which has just now taken place, itself proves that there is a divergency of opinion upon the question of partition. I have had the advantage of discussing with two of my non-official colleagues, Messrs. Kayalam Parameswaran Pillai and G. Parameswaran Pillai, before I came to the Council today, about the proposed Bill, and I understood that both of them agreed with me as regards the principle of the Bill, though, with regard to matters of detail, they have got important and useful suggestions to make. Of course, it will be possible to incorporate all those ideas in the Bill at the subsequent stages. I have already said in my opening speech that my idea also is to make the Bill as useful as possible to the Nair community, and every suggestion which will go to bring about that result will certainly be accepted and every attempt made to meet those suggestions. All that I wanted was to place the draft Bill before the Council, so that the opinions of the Members of the Council and of the public generally may be focussed upon this important matter, and legislation upon this question accelerated as much as possible. I am thankful to my colleagues in the Council for the appreciative way in which they have received my proposal to introduce the Bill. I suppose it will be possible to put forth a Bill and have it passed, which will eventually satisfy public opinion as far as possible."

Mr. Raman Tampi's motion was carried.

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